

REMARKS

I. Introduction

In response to the Office Action dated January 9, 2008, claims 30, 40, 48-50, 51, 59-61, 62 and 70-72 have been amended, and 73-76 have been added. Claims 30-76 are in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Prior Art from Related Cases

According to MPEP §§2001.06(c), 609.02, the Examiner will consider prior art cited in earlier applications, and must indicate in the first Office Action whether the prior art cited in the related earlier application has been reviewed.

The Applicant notes that this application is a continuation of one or more parent or sibling applications. Accordingly, the Applicant respectfully requests that the Examiner indicate that a review of the related cases has been undertaken and the prior art cited and arguments made in those applications has been considered.

III. Claim Amendments

Applicant's attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and were not required for purposes of patentability.

IV. Office Action Objections

In paragraph 2, the Office Action objects to claims 30, 48-49, 59-60, 62, and 70-71 because of a number of informalities. The Applicant thanks the Examiner for noting these errors and has amended the claims accordingly. In particular, please note that with regard to the objection to claims 48-49, 59-60, and 70-71, the Applicant has changed the claim numbering and amended the claims to provide antecedent bases for the subject claims.

V. Office Action Double Patenting Rejection

On pages 2-5, the Office Action provisionally rejects claims 30, 40, 51 and 62 under the judicially-created doctrine of double patenting as being unpatentable over claims 9, 11, 12 and 13 of U.S. Patent 6,742,184.

Attached to this correspondence is a terminal disclaimer obviating this rejection.

VI. The Cited References and the Subject Invention

A. The Lemmons Reference

U.S. Publication No. 2004/0216160 issued October 28, 2004 to Lemmons et al. discloses an interactive program guide systems and processes. Interactive program guide systems and related processes are provided which can automatically tune a television, or program a VCR, based on program selections made from program schedule information displayed on a television or other suitable video monitor. The interactive program guide is preferably implemented using a microprocessor-controlled set-top box that is coupled to the viewer's television set. The set-top box receives program schedule information and software from a headend telecasting center. Preferably, program schedule information for the current day and at least six subsequent days is stored in a memory within the set-top box. The interactive program guide provides a display mode for allowing the viewer to apply a restrictive search selection criterion and a nonrestrictive sort attribute to the program schedule information.

B. The Chelius Reference

U.S. Patent No. 4,720,123 issued January 19, 1988 to Chelius discloses a customized calendar. A customized, i.e., personalized, calendar having a plurality of surface sections is disclosed in which name information indicia is presented in one section, important date information indicia is in another section, birthdate information indicia is contained in a third section, and monthly calendar information indicia is in a fourth section. The calendar as customized can be readily printed with a computer-driven printer system. Another embodiment includes, besides the customized calendar, a personalized transmittal letter section and a personalized mailing label section.

C. The Moon Reference

U.S. Patent No. 6,064,975 issued May 16, 2000 to Moon et al. discloses an apparatus and method for highlighting holidays of a specified location in a calendar software application. An apparatus and method for highlighting holidays in a calendar software application of a portable intelligent communications device or in a separate computer, including the steps of specifying a geographical location, determining holidays for the geographical location, depicting a calendar on a display screen of such portable intelligent communications device or computer, and depicting holidays in a fashion different from other days on the calendar. The geographical location information is specified by the current location of the portable intelligent communications device or via a graphical user interface. The holiday information is obtained from a database housed in the portable intelligent communications device or via an Internet address connected through communications circuitry of the portable intelligent communications device. The holidays for the geographical location may be depicted in a color different from the other dates on the calendar and each holiday name may be depicted on the appropriate date of the calendar.

D. The Brown Reference

U.S. Patent No. 4,216,596, issued August 12, 1980 to Brown discloses a perpetual calendar. The specification discloses a perpetual monthly calendar in which numbered belts are adjustable to bring the numbers of a year to a year window, a month belt is adjustable to bring the month (with the number of days therein) to a month window, a day belt having six horizontal rows of numbers adjustable to bring the appropriate monthly calendar to a day window with the first of the month under the day of the week on which the month of a row of the days of the week is above the day window and exposing consecutive day numbers of that month in the day window. A sixth row pointer is adjustably positioned just beyond the last day of the month exposed when next day is in the sixth row. A fifth row pointer is adjustably positioned beyond the last day of the month exposed when the next day is in the fifth row.

E. The Canada Population Density Map Reference

The "Canada Population Density Map" Reference discloses a map in which different colors and shades of colors are used to indicate population density.

F. The Boyer Reference

U.S. Publication No. 2006/0253869, issued November 9, 2006 to Boyer et al. discloses an internet television program guide system. An Internet television program guide system is provided that allows a user at a multimedia system to access information related to television programs over an Internet communications link. The user can view television program guide listings and related video stills and video clips. The user can perform database searches on the program guide listings (e.g., to search for a particular type of television program). If desired, the user can select an option that directs the multimedia system to tune directly to a television channel for a selected program or to a related television program guide or movie guide service on a television channel. The user can order pay-per-view events using the system.

VII. Office Action Prior Art Rejections

On pages 6-8, the Office Action rejected claims 30, 31, 33-35 and 37 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Chelius. The Applicant respectfully traverses these rejections.

With Respect to Claim 30: Claim 30 recites:

An electronic program guide for providing information regarding a plurality of broadcast media programs comprising:

*a listing of media program representations that represent a first subset of the plurality of media programs; and
a calendar image displayed separate from and with the listing of media program representations, the calendar image including a plurality of dates and a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of media programs will be broadcast;*

wherein the calendar image includes a selection indicator, the selection indicator movable within the calendar image for selecting one of the plurality of dates on the calendar image.

Claim 30 has been amended to recite that the calendar image is displayed separate from and with the listing of media program. As the Office Action acknowledges, Lemmons does not disclose this feature.

The Office Action also acknowledges that Lemmons does not disclose "a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates,

providing an indication of the dates on which the first set of media programs will be broadcast” but indicates that Chelius discloses this feature, because Chelius discloses:

“a calendar containing a plurality of indicators ‘that provide an indication of the dates’ associated with the listings (highlight 58 which indicates a date from listings section 56 [Fig. 3]. Only one indicator is shown, but the section heading ‘Extremely Important Dates’ implies that multiple dates may be listed and indicated.”

Chelius simply discloses a printed personalized calendar having pre-printed “important” dates thereon. First, “important dates” are not analogous to program indicators, nor do they provide an indication of when anything analogous to media programs will be broadcast. Second, the “important dates” are not displayed separate from and with anything analogous to media program representations. Third, the “important dates” are not overlaid on one or more of the plurality of dates in the calendar. Accordingly, even if it were appropriate to modify Lemmons as disclosed in Chelius, the result would not be the Applicant’s invention, as described in claim 1. It would be showing a calendar with an “important program” listed on the bottom, as shown in Chelius.

The Applicant also respectfully disagrees that there would be any motivation to modify Lemmons as described in Chelius. First, the two references are in substantially different fields of endeavor. Lemmons is directed to an electronic program guide, while Chelius is directed to a simple desk calendar. Second, there is no motivation to modify Lemmons to be like Chelius. The proffered motivation:

“to provide listings indicators as taught by Chelius’ calendar for the purpose of indicating dates contained in a listing[s], thus allowing a user to easily correlate a listing date with a particular date on a calendar image”

is of no help, because Lemmons itself teaches providing a calendar to indicate dates. In fact, Lemmons specifically teaches that the “specified day and date to not limit the amount of or in any sense restrictively select the program schedule information available or displayed to the user” (paragraph [0088]). Accordingly, Lemmons specifically teaches away from the Applicant’s invention.

“A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. The degree of teaching away

will of course depend on the particular facts; in general, a reference's disclosure will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the Applicant. *In re Gurley*, 27 F.3d 551, 553, 31 U.S.P.Q.2d 1130 (Fed. Cir. 1994).

With Respect to Claims 31, 33-35 and 37: Claims 31, 33-35 and 37 recite the features of claim 30 and are patentable for the same reasons.

On pages 9-10, the Office Action rejected claim 32 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Chelius, and further in view of Moon. The Applicant respectfully traverse this rejection for the same reasons as described above with respect to claim 30.

On pages 10-11, the Office Action rejected claim 36 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Chelius, and further in view of Brown. The Applicant respectfully traverse this rejection for the same reasons as described above with respect to claim 30.

On pages 11-12, the Office Action rejected claims 38 and 39 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Chelius, and further in view of Canada Population Density map. The Applicant respectfully traverse these rejections for the same reasons as described above with respect to claim 30. The Applicant also disagrees that one of ordinary skill in the art would be motivated to modify the combination of Lemmons and Chelius as shown in the Canada Population Density Map. Lemmons and Chelius do not address the notion of program indicators at all. Further, even if they did, it is unlikely that one of ordinary skill in the art would look to a population density map for guidance.

On pages 12-19, the Office Action rejected claims 40, 41, 43-45, 47, 51, 52, 54-56, 58, 62, 63, 65-67 and 69 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Boyer. The Applicant respectfully traverses these rejections.

With Respect to Claims 40 and 51: Claim 40 recites:

An electronic program guide receiving system that receives and generates a display of television content and program guide data, the system comprising:
a receiver for receiving the program guide data and the television content;
a memory for storing the received program guide data; and
a display generator for generating a first display screen based on the received program guide data, the first display screen comprising a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations, the calendar image including a plurality of dates and a selection indicator, the selection indicator movable within the calendar image, the selection

indicator for selecting one of the plurality of dates on the calendar image and a time, the listing of media program representations representing a plurality of media programs that are being broadcast on the selected date and time;

wherein the selection indicator is movable within dates on the calendar image to select a particular time.

According to the Office Action, Lemmons discloses that the selection indicator is movable within dates on the calendar image to select a particular time. This is incorrect. The Office Action argues:

the times are logically "within" the dates because they are used to further refine a "day to view" selection [0088]

However, the claim specifically recites that the *selection indicator is movable within the dates on the calendar image to select a particular time*. Plainly, Lemmons does not disclose this feature, and in fact, teaches away from it by teaching that the time selection is not within the calendar image, but elsewhere. What something is used for (e.g. further refining a selection) does not change where it is or how it moves. Boyer also fails to disclose this feature.

Claim 51 recites analogous features and is patentable for the same reasons.

On pages 19-20, the Office Action rejected claims 42, 53 and 64 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Boyer, and further in view of Moon. The Applicant respectfully traverses these rejections for the same reasons as described above with respect to claim 40 and 51 above.

On pages 20-21, the Office Action rejected claims 46, 57 and 68 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Boyer, and further in view of Brown. The Applicant respectfully traverses these rejections for the same reasons as described above with respect to claim 40 and 51 above.

On pages 22-23, the Office Action rejected claims 50, 61 and 72 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Boyer, and further in view of Chelius. The Applicant respectfully traverses these rejections.

With Respect to Former Claim 50 (now claim 48): Claim 50 has now been amended and renumbered to claim 48. As amended Claim 48 recites:

The system of Claim 40, wherein:

the listing of media program representations represent a first subset of the plurality of media programs; and

the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality of media programs will be broadcast.

According to the Office Action Lemmons in view of Boyer discloses the listing of media program representations representing a first set of media programs and that the calendar image includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates thereby providing an indication of the dates on which the first set of media programs will be broadcast.

The Office Action acknowledges that the Lemmons-Boyer combination does not disclose a plurality of program indicators, each program indicator overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality of media programs will be broadcast. However, the Office Action argues that these features are disclosed in Chelius. For the reasons described above with respect to claim 30, the Applicant respectfully disagrees. Even when combined with Chelius, Lemmons-Boyer does not disclose (1) a program indicator, that is (2) overlaid on one or more of a plurality of dates, and which (3) provides an indication of when a first subset of media programs will be broadcast.

With Respect to Claims 61 (now 59) and 72 (now 70): Claims 59 and 70 are patentable for the same reasons.

On pages 21-22, the Office Action rejected claims 48, 49, 59, 60, 70 and 71 under 35 U.S.C. §103(a) as unpatentable over Lemmons in view of Boyer, and further in view of Population Density maps. The Applicant respectfully traverses these rejections. Claims 48 (now 49), 49 (now 50), 59 (now 60), 60 (now 61), 70 (now 71) and 71 (now 72) are patentable for the same reasons as claims 50 (now 48), 61 (now 59) and 72 (now 70).

VIII. Dependent Claims

Dependent claims 30, 40, 51 and 62 incorporate the limitations of their related independent claims, and are therefore patentable on this basis. In addition, these claims recite novel elements

even more remote from the cited references. Accordingly, the Applicant respectfully requests that these claims be allowed as well.

IX. New Claims

New claims 73-76 are presented for the first time in this Amendment. For the reasons described above, new claims 73-76 are patentable over the prior art of record, and the Applicant respectfully requests the allowance of these claims as well.

X. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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